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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,369	11/23/2001	Gerd Munnekehoff	44815-262289 (26010)	9397
23370	7590	12/02/2004	EXAMINER	
<b>JOHN S. PRATT, ESQ</b> <b>KILPATRICK STOCKTON, LLP</b> <b>1100 PEACHTREE STREET</b> <b>ATLANTA, GA 30309</b>				BRAHAN, THOMAS J
		ART UNIT		PAPER NUMBER
		3652		

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/913,369	MUNNEKEHOFF, GERD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas J. Braham	3652	<i>MJ</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 02 September 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 3,5,11,13-17 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,11,13-17 and 22-27 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 28-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claims 3, 5, 11, 13-17, and 22-27 have been withdrawn from consideration as drawn to non-elected species, the election having been made without traverse in paper filed January 21, 2003. It is noted that claims 3, 5, 11, 13-17, and 22-26 are incomplete, as depending from canceled claims.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

3. Claim 30 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 30, lines 35-37, the limitation "so that the vertical (Z-Z) movement of the load bearing element (5) can be braked in dependence on the signal (S)" fails to positively recite that the device is braked or has brake means.

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Joraku et al 3,841,605 in view of Habisohn. Joraku et al '605 shows the basic claimed system for controlling a load lifting apparatus, comprising:

a controllable drive (313/316);

a load-bearing element (312) connected to the drive and aligned at least in a vertical path (Z-Z) as a result of gravitational force in a rest position of the load-bearing element;

a load-receiving device (at 310) connected to the load-bearing element; and

a regulating circuit operatively associated with the controllable drive for load-balancing purposes, the regulating circuit comprising a device responsive to movement of the load-receiving device on the vertical path (Z-Z) for generating a signal (a value of the current corresponding to the torque of the motor needed for lifting the load; see column 3, lines 59-63) for balancing the load in the vertical path without presetting the weight of the load.

Joraku et al '605 varies from the claims by having the regulating circuit operating, after the load is

received by means of the load-receiving device, using control signals to automatically increase the *speed* of the drive to control the load movements and establish a neutral at rest position and control subsequent movements, instead of using control signals based upon *torque*. However speed control signals and torque control signals are art recognized equivalent control signals in the hoisting art. Habisohn shows a crane motor control system and teaches that speed signals, acceleration signals, and torque signals are art recognized equivalents, see column 21, lines 40-67. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the control system of Joraku et al '605 by using torque signals instead of speed signals to establish the at rest positions and to move the loads from the rest positions upon manual manipulation by operator, as speed controlling signals and torque controlling signals are art recognized equivalents, as taught by Habisohn.

6. Claim 30, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Joraku et al 4,087,078 in view of Habisohn and Motoda. Joraku et al '078 shows the same control circuit for balanced lifting as the Joraku et al '605 used above, but also coordinates the balancing lifting with a brake device. It varies from claim 30 for the same reason as Joraku et al '605 by using speed control signals instead of torque control signals to control the drive means. It also varies from claim 30 by having the load moved from the at rest balanced position by control signals responsive to the operator directly pushing the load instead of control signals from an actuation lever on the load-receiving device. As in the previous rejection, Habisohn teaches that speed signals and torque signals are art recognized equivalents, see column 21, lines 40-67, and it would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the control system of Joraku et al '078 by using torque control signals instead of speed signals to establish the at rest positions and to move the loads from the rest positions upon manual manipulation by operator, as speed controlling signals and torque controlling signals are art recognized equivalents, as taught by Habisohn. Motoda shows a similar balanced lifting device with an actuator (7) on the load-receiving device. It would further have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the balanced lifting device of Joraku et al '708 by providing the load-receiving device with an actuator, for providing control signals indicative of desired lifting movements, for positive control of the lifting movements, as taught by Motoda.

7. Applicant's remarks in the amendment filed September 2, 2004, have been considered, but are deemed moot in view of the above new rejections. An inquiry concerning this action should be directed to Thomas J. Brahan at (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Braham  
Primary Examiner  
Art Unit 3652